

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
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)	
Clamor Broadcasting Network, Inc.)	File No. EB-03-SJ-019
Owner of Antenna Structure located atop of the)	NAL/Acct. No. 200332680004
Atlantico Condominium of Naranjal Street,)	FRN 0008-4033-88
Levittown, Puerto Rico)	
Bayamon, Puerto Rico)	

MEMORANDUM OPINION AND ORDER

Adopted: July 6, 2005

Released: July 8, 2005

By the Acting Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* ("Order"), we deny the petition for reconsideration filed by Clamor Broadcasting Network, Inc. ("Clamor"), the former licensee of station WPLI and the current owner of its antenna structure,¹ of the *Forfeiture Order*² issued July 28, 2004, in the amount of three thousand dollars (\$3,000) for willful and repeated violation of Section 17.4(a) of the Commission's Rules ("Rules").³ The noted violation involves Clamor's failure to register its antenna structure.

2. On April 14, 2003, the Commission's San Juan, Puerto Rico Office ("San Juan Office") issued a *Notice of Apparent Liability for Forfeiture* ("NAL") to Clamor in the amount of three thousand dollars (\$3,000).⁴ In its response, Clamor claimed that it attempted to register WPLI's antenna structure and did not willfully violate Section 17.4(a) of the Rules. In the *Forfeiture Order*, the Bureau rejected Clamor's arguments and imposed a forfeiture of \$3,000. In its petition for reconsideration, filed on August 20, 2004, Clamor does not contest the violation but seeks cancellation or reduction of the forfeiture on the basis of economic hardship, particularly operating losses, and has submitted copies of financial statements for 2001 and 2002 as support. The information in Clamor's 2002 financial statement is consolidated with financial information from another entity. Therefore, only the financial statement for 2001 contains useful information. In analyzing a financial hardship claim, the Commission generally considers gross revenues from the three most recent tax years to be a reasonable and appropriate yardstick in determining whether a licensee is able to pay the assessed forfeiture.⁵ Even though Clamor apparently sustained operating losses during 2001, this information does not establish that Clamor is unable to pay

¹ The license for WPLI (formerly WKVN-FM) was assigned from Clamor to Family Education Association, Inc., on April 7, 2004. However, Clamor remains the registered owner of the antenna structure.

² *Clamor Broadcasting Network, Inc.*, 19 FCC Rcd 14028 (Enf. Bur. 2004).

³ 47 C.F.R. § 17.4(a).

⁴ See *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200332680004 (Enf. Bur., San Juan Office, April 14, 2003).

⁵ See *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"), 12 FCC Rcd 17087, 17106-07 ¶ 43 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

the forfeiture.⁶ After reviewing Clamor's claim and the relevant supporting documentation, we find no justification for canceling or reducing the forfeiture amount on the basis of economic hardship.

3. We have considered the forfeiture amount and we have examined Clamor's petition for reconsideration pursuant to the statutory factors prescribed by Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"),⁷ and in conjunction with the *Forfeiture Policy Statement* as well. As a result of our review, we conclude that neither reduction nor cancellation of the monetary forfeiture is warranted and that the *Forfeiture Order* should be affirmed.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of Act⁸ and Section 1.106 of the Rules,⁹ the petition for reconsideration filed by Clamor Broadcasting Network, Inc., on August 20, 2004, **IS DENIED** and the *Forfeiture Order* **IS AFFIRMED**.

5. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within 30 days of the release of this *Order*. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹⁰ Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.¹¹

6. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class and Certified Mail, Return Receipt Requested, to Clamor Broadcasting Network, Inc., P.O. Box 40000, Bayamon, Puerto Rico 00958-9000, and to its counsel, James L. Oyster, Esq., 108 Oyster Lane, Castleton, VA 22716.

FEDERAL COMMUNICATIONS COMMISSION

Kris A. Montieth
Acting Chief, Enforcement Bureau

⁶See *PJB Communications of Virginia, Inc.*, 7 FCC Red 2088 (1992).

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ 47 U.S.C. § 405.

⁹ 47 C.F.R. § 1.106.

¹⁰ 47 U.S.C. § 504(a).

¹¹ See 47 C.F.R. § 1.1914.